

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARK L. PARKHILL,	§
	§ No. 303, 2012
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID No. 1105006573
	§
Plaintiff Below-	§
Appellee.	§

Submitted: July 2, 2012

Decided: July 16, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

ORDER

This 16th day of July 2012, it appears to the Court that:

(1) On June 4, 2012, the Court received the appellant’s notice of appeal from the Superior Court’s March 6, 2012 violation of probation (“VOP”) sentencing order. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the VOP sentencing order should have been filed on or before April 5, 2012.

(2) On June 5, 2012, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why his appeal should not be dismissed as untimely. The appellant filed a response to the notice to show cause on June 11, 2012. The appellant states that his attorney

failed to notify him of his right to appeal his VOP sentence. The appellant's attorney filed a reply to the appellant's response in which he states that he cannot verify that the appellant was notified of his right to appeal.

(3) Under Supreme Court Rule 26(k), counsel for a probationer must inform his client of the right to appeal a VOP sentence. In this case, the appellant's counsel is unable to confirm that the appellant was notified of his right to appeal. Moreover, the Superior Court docket does not reflect that the appellant was given the form indicating his right to appeal from his VOP sentence. Under such circumstances, and without any objection from the State, we conclude that this matter should be remanded to the Superior Court for further fact finding regarding the appellant's knowledge of his appeal rights and, if necessary, modification of the sentencing date in order to permit the appellant to file a timely notice of appeal.

NOW, THEREFORE, IT IS ORDERED that this matter is hereby REMANDED to the Superior Court for further proceedings in accordance with this Order. Jurisdiction is not retained.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice